

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 501 OF 2021

1. Shubham Ramprakash Mishra

2. Rahul Ramesh Parmar ... Applicants

Versus

The State of Maharashtra ... Respondent

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Mr. Shambhu M. Jha a/w. Mr. Abhimanyu Yadav, for the Applicants.

Mrs. M. R. Tidke, APP for the Respondent – State.

Mr. Shendge, P.S.I., Kasturba Police Station, Mumbai, present.

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CORAM : PRAKASH D. NAIK, J.

DATE : 24th FEBRUARY, 2021

PC :

1. This is an application for anticipatory bail in connection with C.R.No.31/2021 registered with Kasturba Marg Police Station, Mumbai for the offences under Sections 326, 341, 324, 323, 504 read with 34 of Indian Penal Code. The F.I.R. was registered on 20th January 2021.

2. The case of the prosecution is, that on 19th January 2021, the first informant and his friend had proceeded towards the house on motorcycle. The complainant's friend Kiran Uttekar was pillion rider. The complainant was riding the motorcycle. He met with a minor

accident with another motorcycle. The informant reached Devipada play ground on Western Express Highway. He was stopped by unknown persons. They started assaulting complainant. Thereafter, other persons joined. The accused were armed with weapons and the complainant and his friend were assaulted by weapons as well as by bricks. The First Information Report had alleged that four persons had assaulted complainant and his friend.

3. It appears that CCTV footage of place of incident was recovered. On identification accused were arrested. The applicants not mentioned as assailants. During the remand of the co-accused, it is alleged applicants were involved in assault. The case of the applicant is that, the applicant Nos.1 was celebrating his birthday and he was not present at the place of incident. The statements of the witnesses who had implicated applicants were recorded after the period of five days.

4. Learned APP submits that although the applicants are not named in the First Information Report, the statement of the eye witness referred to seven persons having assaulted the complainant and others and one of the injured person had attributed role of assault to the applicant. There are criminal antecedents against both the applicants.

5. On perusal of F.I.R., it is apparent that, the case proceeds with assaults by four persons. The CCTV Footage from the place of incident was recovered and on watching the same, four persons were arrested and they were remanded. The involvement of the applicant was disclosed for the first time after a period of five days. The contention of the applicant is that, the version of these witnesses whose statements were recorded subsequently is contradictory to the First Information Report and there is every likelihood that the applicants are falsely are implicated in this case.

6. Considering the factual matrix of this case, it is not clear as to what weapon was used by the accused. Specific role has not been attributed to any person. The allegations are general in nature. In these circumstances, the applicants need not be subjected to custodial interrogation.

7. Hence, the following order.

ORDER

- (i) Anticipatory Bail Application No.501 of 2021, is allowed;
- (ii) In the event of arrest of the applicants in connection with C.R.No.31/2021 registered with Kasturba Marg Police Station, Mumbai, the applicants be released on bail on executing P.R.

bond in the sum of Rs.25,000/- each with one or more sureties each in the like amount;

- (iii) The applicants shall report the investigating officer on 8th 9th and 10th March 2021 between 11.00 a.m. to 01.00 p.m. and thereafter, as and when called for till filing of chargesheet;
- (iv) Anticipatory Bail Application No.501 of 2021, stands disposed of.

8. This order will be digitally signed by the Private Secretary/Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

(PRAKASH D. NAIK, J.)